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In the Matter of:

Implementation of the Satellite Home
Viewer Improvement Act of 1999

Broadcast Signal Carriage Issues

CS Docket No. 00-96

Formal Comment

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I.

INTRODUCTION

The Federal Communications Commission (FCC) (Commission) together with its hard-working staff is a dedicated group of people that must, on an on-going basis, deal with a host of complex technical issues.

Sometimes law comes down from Congress that is impractical or difficult for the FCC to implement and enforce. I am confident that many of my remarks here will reflect upon circumstances and problems that are well known to the FCC and its staff. As I am not an attorney, I'll refrain from legal citations in my Comment, but what you will read are often strong and well-founded opinions of an American citizen and consumer stating "how it should be" rather than "kowtowing" and endorsing the way things are.

If we are to progress forward, change is often necessary, and today the winds of technological change are blowing very strongly. These winds often affect the "established way of doing things," making completely different and better ways of doing things possible, but there are always entities who would rather have time stand still and everything remain the way it is. If these entities are allowed to prevail, **we** will stand still, frozen in time as a society.

Sometimes technological change can be so powerful that it wipes out entire industries, and decimates certain occupations. For example, there used to be many thousands of projectionists employed in motion picture theatres. Today, this craft has been wiped out by automation; the invention of the xenon lamp which has replaced carbon arcs as a light source, and a "platter system" whereby an entire movie feeds from start to finish through a single projector; instead of alternating a 15-20 minute reel at a time between two projectors. Very few projectionists are still employed today.

I feel that the FCC has broad discretionary powers which will enable it to deal with bad, impractical or irrational law, or law that will cause time to stand still and prevent progress. If you agree with me that something commented upon here is as "bad" as I say it is, and not in the best interests of the American public, you can "bark back" at Congress and send a strong message by "declining" to do something they wanted you to do, as you did in an earlier process last year in connection with the Grade B contour.

You could also "implement" something I suggest if you agree that what I say is good, has merit, and will benefit the American people. With that said, let us begin.

II.

A SERIOUS PROBLEM: THE EXCESSIVE, UNWARRANTED INFLUENCE & DOMINANCE OVER THE LEGISLATIVE PROCESS WIELDED BY THE MONIED SPECIAL INTEREST KNOWN AS "THE NATIONAL ASSOCIATION OF BROADCASTERS," (NAB), WHY THIS INFLUENCE PREVAILS, THEIR ARROGANCE, AND WHY THEIR DOMINANCE OF THE PROCESS IS BAD FOR THE AMERICAN PEOPLE AS A WHOLE AND ESPECIALLY FOR RURAL AMERICA.

One of the difficulties the FCC faces is burdens and problems placed upon it on by certain laws passed by Congress. The Satellite Home Viewer Improvement Act of 1999 ("SHVIA") is, in part although not 100%, an example of bad law containing provisions written at the direction of an extremely wealthy "interest," the National Association of Broadcasters (NAB). Parts of the law have led me to believe, as an American citizen, that the NAB was practically in control of the process at that time.¹

The FCC as well as Congress has heard an outcry throughout the land from millions of people complaining of being unable to receive off-air an acceptable quality television picture from local television stations in their areas. To this day, the problem has not been fully solved for everyone, and many parts of Rural America are still in the dark.

Despite this outcry, the arrogance of the NAB is unspeakable. During one of the hearings before the Telecommunications committee, a representative of the NAB held up a tiny television antenna and said this was all that Rural America needed to receive local television stations. I was not there, but can visualize this cretin seated behind the table in his \$1200 suit, and no doubt his limousine parked out in front with the motor running. I doubt that I have any great chance of competing with this kind of monied might, but I'm certainly going to try.

It is due to the NAB's monied power over a malleable and corrupt Congress that, in a New Millennium, we are all still stuck with this hopelessly obsolete "Grade B contour standard" from 1950. The FCC needs to do something to send a very strong message back to Congress saying that we can't go on this way.

In this forum, it is an undisputed technical fact that absent satellite transmission of broadcast programming, nearly all of Rural America and large numbers of people near or even very close to a full-power broadcast television station cannot receive a picture of "adequate," "acceptable" quality.

An "Acceptable" Television Picture?

An Easy Test... I define "adequate" and a "Good Quality Signal" to mean off-air reception that includes stereophonic sound, and is equivalent to a local broadcast station being received by

satellite, as seen on a television receiver (TV set) which is being switched alternately, in an A-B test, between the output of a satellite receiver and an off-air antenna, such as a "rabbit-ear," since in many settings the installation of a rooftop antenna is not possible. Complex Technical Measurements are not necessary. The human eye is the only instrumentation we need for my test.

If they only had the chance to do so, most members of the American public would be able to choose, with flawless accuracy, which source to the TV set produces the best picture. The NAB, of course, doesn't want us Americans to have this freedom of choice. Absent the NAB, we probably would have it. And I wish that the FCC would, acting on its own initiative, make this simple test the controlling factor in determining whether or not a household is eligible to receive network broadcast signals by satellite. It is simple, definitive, cheap and fast, and I believe that the FCC could make such a ruling.

Our goal at all times in this process, and the over-riding and controlling factor should be to enable American citizens throughout the land to receive broadcast stations with the highest possible quality picture and stereo sound that technology is able to produce. **Only satellite technology can deliver this.** On-air analog RF transmission of these signals is an obsolete, archaic process.

While the SHVIA has enabled the delivery of high-quality broadcast signals to about 2/3 of the country so far, we still have the remaining 1/3 that is left out... the "outsiders," one might say. This group includes those living in cities where conditions such as vegetation, "shadows" caused by buildings, and the like prevents as a practical matter reception of a good off-air broadcast signal. These people can receive only by satellite, and this deficiency needs to be addressed. I'm one of them!

I call on the FCC for COURAGE! Don't be Cowardly Lions kowtowing to the NAB. The foregoing simple test, that does not require complicated technical measurements, ought to be how it is decided whether or not John Q. Public will be able to watch the Saturday afternoon football game, or anything else, on his TV set.

III.

POLITICAL CORRUPTION, THE LACK OF MEANINGFUL CAMPAIGN FINANCE REFORM, AND HOW THIS IS ADVERSELY AFFECTING THIS PRESENT MATTER AND OTHER ISSUES BEFORE THE COMMISSION.

Unfortunately, at present members of Congress spend about 90% of their time raising money for the next campaign for re-election. Vast sums of money in the many millions of dollars are needed, as television advertising is expensive. And the NAB has lots of money to give to members of Congress who will do as they are told. It is this sorry state of affairs that gives the NAB the power it has over Congress and the process of writing what sometimes is "bad law" that later the FCC has to try and implement.

We have come to a point, I believe, where the lobbyists for Big Money are no longer just out in the hallways, they are in the Congressmen's offices writing the laws. The business of America has been largely relegated to subordinates and staff members. And I am inclined to define a member of Congress who takes money from the NAB, or any other "monied special interest," and then allows them to control how he votes, as a "bag man."

We need Campaign Finance Reform that will remove the need for this continuous and corrupt process of raising money for political campaigns, but I am also a practical man, and I'm not too optimistic that any of this is going to change any time soon. After all, expecting the ruling class to reform themselves is like expecting the hatchet murderers to run the nursery!

The NAB was highly influential in having provisions written into current law that make the local TV station "the fox in charge of guarding the chicken coop."

If a member of the public, such as myself, wants to be able to get the pristine picture and sound uplinked to satellite by CBS... here in Billings, Montana he has to ask the local CBS affiliate, KTVQ, for a waiver. I did. KTVQ refused. The result of this has been that I no longer watch anything on CBS. It's unbearable. (Please look at the videotape accompanying this Comment, and you'll see what KTVQ looks like in my home.)

The loss of CBS is hardly a matter of life or death for me, since hundreds of other channels are potentially available on the satellite receiver via DirecTV. But it's the principle of the thing. As long as the NAB is running the show, bought and paid for, We The Public have limited choices. NAB decides what we get to watch.

Written in compliance with the dicta of the NAB, the SHVIA restricts Americans from viewing local TV stations anywhere but in their own immediate area, (in legalese the "designated market

area,") although the advancing technology in existence right now makes it easily POSSIBLE for any of us to watch any station anywhere, as long as it's being uplinked to satellite.

There is an exception, but even the exception is a little strange. An "unserved household," determined only by a very complex and inaccurate process spelled out in the SHVIA, or a household that has been fortunate enough to obtain a "waiver" from the local TV station (fox in charge of the chicken coop, remember?) can have the "distant station package" turned on by the satellite carrier, but it seems as though the stations in this package are decided by the carrier.

The FCC needs to take a very careful look at this. It is a significant broadcast signal carriage issue. Why can't the satellite carrier just be allowed to switch on ALL the local station channels for an "unserved" or "waivered" household, and let them choose what station they want to watch? It sure would be a lot less complicated for the satellite carrier.

For that matter, WHY can't we all, as the American citizens to whom the airwaves theoretically belong (I think) have the right and full freedom of choice to tune in any local station in any market area we want to? To deny us this privilege which technology now makes possible, is unwarranted and unjustified restriction of freedom of choice in the use of what are supposed to be Public Airwaves.

But Radio Stations are different. We can receive hundreds of these on the Internet. No law prevents Americans from receiving radio stations that are outside their "designated market areas." And, "Designated" by whom, by the way??? Why can't we receive all the TV stations that have been uplinked to satellite, since they are there? **WHY do these irrational laws prevail?**

Think, for a moment, how pleasant and informative things could be if we could all watch off-satellite any "local station" we wanted to. Now that the FCC and the staff is all together in the nice building, as I saw on the website, try an informal survey just within the staff of this question:

Surely not everyone on the FCC staff is originally from the Beltway. Some of you are from elsewhere in our nation... perhaps one from San Francisco, a few from L.A., some from New York, maybe Joisey, Florida, Colorado, Minnesota and everywhere else in between.

Suppose you grew up in Dallas, Texas, but now working with the FCC in Washington. Wouldn't it be nice to be able to punch up the local news from Dallas on the satellite receiver, and see what's going on in your home town? There's certainly no technical reason why you can't.

It's just that the NAB says "NO -- we just can't have all you Americans doing this... it's contrary to our best interests and our profits. WE are running this show, WE own Congress, and by golly the laws and the regulations are going to be written the way WE want them to be."

Sorry, folks. Too bad. No local TV news from your home town.

End of discussion.

IV.

LOCAL TELEVISION STATIONS -- "ANACHRONISMS IN THEIR OWN TIME" AND THE REASONS WHY 80% OF THEM (ESTIMATED) WILL BE GONE IN FIVE YEARS, AND WHAT FORM THEIR REPLACEMENT MAY TAKE.

I used to believe that this entire complicated problem with the local TV stations would go away in about ten years, as they would be out of business due to the competition for "viewer share" from all of the other satellite channels, but now I think it's only going to be about five years from today, about 2006, give or take a year. This is about the same time they all have to go to digital transmission, that is, the ones that are still left on the air.

It's mainly a matter of simple arithmetic. Over six months ago I read in an issue of Time magazine that the viewer share of the four major networks (4 if you include Fox, a minor player) was down to about 25%. It has been dropping steadily for years, but has accelerated rapidly in the last 3 years, as new channels proliferate and the sales of satellite receivers increase. If you shop around, you can get a satellite system for about \$100; sometimes even free.

I forget which city it was, but just recently the ABC station was shut off by the cable system due to the deadline for a retransmission agreement not being met, and immediately one of the satellite services offered free receivers to everybody!!

If the local TV stations as a whole have only 25% of the viewers, it means that this 25% has to be divided up between all the stations in a given locality. It might look like this:

| <u>NETWORK</u> | <u>% OF VIEWER SHARE</u> |
|----------------|--------------------------|
| ABC | 7% |
| CBS | 8% |
| FOX | 4% |
| NBC | <u>6%</u> |
| Total: | 25% |

This is just for illustration, as the precise percentage breakdown won't be the same everywhere.

What will it be by about this time next year? Maybe by then the local TV stations will collectively be sharing only 20% of the viewers. Then the next year, 16%, by the year after that maybe only 11%.

Inevitably the local businesses who pay large sums for commercials on local TV stations are going to wake up one day, look at the numbers, and say..

"HEY!!!
WE'RE SPENDING ALL THIS MONEY, BUT
NOBODY'S WATCHING OUR COMMERCIALS
ANY MORE!!!!!"

National advertisers may wake up and observe this too, in fact probably much faster than the local ones. I've read that ABC is losing a lot of money, and the Disney interests who own ABC aren't very happy about it. In a desperate attempt to stem the flow of red ink, and the loss of viewers, Disney might decide to convert ABC to a satellite pay service channel, making it available to anyone who wants to subscribe for a nominal sum; as well as to local affiliates. This, I believe, will override the local station issue and NAB's control for ABC.

Gee whiz. Maybe even I will be able to watch ABC again, occasionally,if they have a good movie-of-the-week on!!!

And that will be the beginning of the end. It may start very suddenly, and when it does will snowball extremely fast. With commercial revenues slashed almost to zero, local TV stations will be tipping over like dominoes, going out of business and off the air one after another in rapid succession. They will first try cutting their advertising rates drastically, but this will only extend the agony for a short while longer. Banks won't lend to

anybody in the first place unless they can prove they don't need the money, and bankers have an instinctive nose for trouble: won't lend to shore up these failing local station American businesses.

In point of fact, local TV stations are anachronisms in their own time given the satellite technology of today. The NAB by its payments under the table to politicians (quasi-legally disguised as campaign contributions) is desperately trying to forcibly maintain what is an obsolete, archaic and doomed method of signal delivery. But their power and monied might will diffuse and fizzle as their TV station members go dark and out of business. It's going to take a few years more, but the problem will go away. If we just can't get the system changed now, then we simply have to be patient and wait until the NAB dies, a victim of its own ingrained arrogant obsolescence. NAB's control of Congress will die with it.

The four major networks may survive, but in 5 years will not exist in the same form they are today. I think all will have become just 4 little pay channels out of hundreds on the satellite receivers. It is quite probable that **one** local station affiliate will survive in most of the major markets, and in the very largest cities where the population is in the multi-millions, like New York or Los Angeles, all four affiliates will still be on the air. But not in the smaller cities. Not in Las Vegas, Birmingham, Alabama, nor in the Twin Cities of Minnesota. And definitely not in Billings, Great Falls or Helena, Montana.

The FCC needs to begin now to anticipate this, and start to make some preparations on the back burner. Obviously, the first thing that's going to happen is that quite a bit of vacant channel capacity is going to pop up on the birds in the sky within channels 900-999 on DirecTV.

For example, in Billings, Montana, I doubt that any of the local TV stations will survive long-term. I would hazard a wild guess that KTVQ will become the final one remaining, but not indefinitely. The remaining 1½% of total viewer share held by KTVQ in, say, 7 years, even with no other stations, will still not be enough to justify a sufficiency of commercials paid by local businesses to sustain KTVQ.

We do have "Community-Seven TV," a city-operated / staffed-by-volunteers public service channel that cable subscribers can watch, but no one else, so far. To maintain "localism," we are going to need a replacement for the obsolescent on-air TV stations when they go dark. These replacements, such as Community-Seven, will have to be on both cable systems and satellite channels, in order that everybody can watch and I submit that channels such as this in Billings and in other cities will become the prime venue where political campaigns will be conducted in the future. The removal of monied might from the equation will be a wonderful thing.

There will be one significant difference.

These public-service channels are not for sale, not to politicians, the NAB nor to any other monied special interest. Incumbent members of Congress will not be able to buy time and commercials like they do today; outspending everyone else to the point where only rich men can run for Congressional seats.

Incumbents will be on an equal playing field with all candidates for office. Unable to saturate with television commercials, they will be compelled to engage in debate with other candidates, whereas now they often refuse.² Each candidate will be allocated a EQUAL "slice" of time where he can present a short video outlining his platform.

That will be about it, aside from print media. Intelligent voters will review all of these facts and make their decisions in the voting booth.

V.

DO THE AMERICAN PEOPLE OWN THE AIRWAVES AND FREQUENCY SPECTRUM, OR IS IT OWNED BY THE NAB?

I ask this question owing to having become a little confused. From what I see of the NAB and how they carry on, it seems as though they think THEY own the airwaves, since they have bought and paid for them with money under the table to Congressmen (oops, sorry, "Political Contributions.")

As I understand it, broadcast TV stations are licensed by the FCC to occupy the channels they do, the 6 MHz of spectrum. For this, they pay no fee, although I think they should. The member stations of the NAB make Billions of dollars annually in profits, and ought to be able to afford to give a little back.

All TV stations transmit their signals over the public airwaves free of charge to anyone who can tune in. This should mean that the signal and all it contains becomes public domain from that instant forward, although program material and movies aired do have individual copyrights. It seems to be well settled in law that anyone may make a copy of anything for his/her own personal use. If the copyright owners want us to only be able to watch something once, but not record it, then they must encode the signal in such a way so that we can't record it.

The Motion Picture Association of America (MPAA) thought they had everybody licked with digital video disk (DVD) encryption, but a Norwegian teenager cracked the code and put it up on the Internet, and the last I heard the MPAA was suing everybody in sight. It's a lost cause, guys. Stop being so Greedy. If you'd sell DVD's at

\$5 a pop instead of \$25, you'd sell Gazillions of them and make a lot more money. This has been proven in the past with computer software.

Thus, it is OK for me to record on tape a movie like "The Wizard of Oz" from a CBS showing, as I did years ago, edit out the commercials garbage so that later on I can enjoy the movie uninterrupted, perhaps with a few glitches where the commercials were. The process is an imperfect one. Or similarly with an episode of a show such as "Hogan's Heroes." I have all 150+ episodes of "Hogan's" in my library, but recorded years ago from beat-up 16mm TV prints, so one of these days I'll update from a satellite channel carrying the series, where they use Betacam tapes prepared from the original 35mm masters. (Big chore.)

Turner Classic Movies (TCM) presented the Wizard on July 3rd for the first time in TV history without interruptions, so I was able to upgrade my tape to a pristine copy. Kudos to TCM. Nice folks! As to DVD's, I don't think I'd want a copy of most of these new movies today. Too Frightening. Safer to go and Hide in the Storm Cellar with Dorothy and Toto.

Not so long ago most TV stations WANTED to be carried on a cable system and would never ask to be paid for carriage. Many pitched battles have been fought before the FCC over the issue of carriage on cable in cases brought by "outsiders" whose signal wasn't on the cable but who wanted it to be.

Now we have recently observed cases of stations who want to be paid large sums for carriage of their signals on satellite and have thus been accused by satellite carriers of refusing to negotiate in good faith... although most of these cases seem to have been resolved.

It is my opinion that neither a cable system nor a satellite carrier should have to pay anything to broadcasters -- not even one cent -- in return for the retransmission (carriage) of their signal. In fact, I would assert that no retransmission consent agreements should be required at all.

This carriage is a public service that is in place for the benefit of the American public, to whom the airwaves and frequency spectrum belong in the first place; to enhance viewing of a signal that is transmitted gratis over-air at the outset, notwithstanding the behavior of the NAB which seems to think that it owns everything because it pays so much money to politicians in graft (oops! "Political Contributions".)

It follows in logic that if a signal is initially transmitted gratis over-air for anyone to watch, it should properly be regarded as having immediately passed into the public domain, and there should not be any requirements for further payments of any kind by anyone to the NAB's member stations for retransmission of the identical signal in real time. We are in need of clarification of

the process so that this will in future be the case. But at the same time keep in mind that this problem will likely be Gone In Five Years, for reasons explained in Part III.

At minimum, what's good for the goose should be good for the gander, and if the NAB thinks that their member stations should be paid by cable and satellite carriers for carriage of their signal; then those fees are inevitably going to be passed on to ALL OF US; and it's high time We The People started charging the NAB for the use of Our Airwaves. I suggest a minimum licensing fee of \$100,000 per year, per channel, per station, with a surcharge applied based upon the population in the station's designated market area.

Given the NAB's attitude, the FCC should immediately begin the appropriate processes to implement this as soon as it can be done.

VI.

THE OBSOLETE "GRADE-B" SIGNAL STRENGTH STANDARD

As I am writing this, both the Satellite Broadcasting and Communications Association (SBCA) and Echostar have already submitted Comments recommending modifications to the Grade B signal intensity standard. Echostar wrote:

"The current standard is hopelessly out of date because it is based upon consumer tests of picture quality that are almost a half century old and do not reflect the expectations of today's consumers in this digital era." ... "The commission must therefore recommend to Congress that new tests be conducted based on statistically significant samplings of modern viewers to take account of this change in expectations."

"Consumers across the country should know that the Grade B intensity standard as currently implemented is of virtually no use in answering the question whether one can, or is willing, to use an off-air antenna to receive network channels."

As a consumer, I would certainly concur. However, in trying to fix this, we need to take account of the fact that the NAB owns Congress by means of graft under the table (oops! Sorry, Political Contributions,) and as a result of their ownership and control, we cannot reasonably expect a viable remedy for our Grade B problem to come from that "distinguished" body of lawmakers. I'd be delighted to be proven wrong in this opinion, of course! How about it, Congress?

I think that the FCC has the power to rewrite "Grade B" to reflect a level equivalent to today's technology. Once this is done, the standard will exceed "Grade A" by a substantial margin. There is no escape from this. At first glance, this may seem irrational,

but we are dealing with irrational law written by Congress in compliance with dicta of the NAB, which in itself is "obsolete." So we have to fight back against enforced obsolescence with all the creativity we can muster. Otherwise, we'll stay frozen in time.

In a rewritten Grade B standard, I propose at the top a Consumer Test -- easily performed by any household that already has a satellite receiver, and who wishes to obtain any or all of the broadcast networks by satellite. In particular, this procedure is designed to **remove** the local station from its present self-serving role as the *fox-in-charge-of-the-chicken-coop* with virtually absolute power over the public's wishes.

(a) If the local station does not transmit stereophonic sound on-air of good quality equivalent to that uplinked to satellite by the network with which it is affiliated, then all consumers in its area shall have no requirement for testing and may immediately request of DirecTV or Echostar a subscription to the distant station package.

(b) The test will be an A-B comparison of the picture and sound quality of several satellite channels vs. the off-air picture as received from a local broadcast station. The household shall not be required to have a rooftop antenna, since in many settings such an antenna cannot be installed; for example if trees, power lines or other "hazards" are in the way; or if the landlord says the tenant may not install one. However, a "rabbit-ear" antenna at the TV set shall be sufficient and minimally required. If there are more than one TV sets in the household, the test shall be performed at a TV set to which the satellite receiver is normally connected.

(c) The test must be witnessed by two persons who are not members of the household, such as friends or neighbors. In addition, the household must notify the local station in advance of the date and time when the test will be performed in order that it may, if it wants to, send a representative to witness the test.

(d) If the household and the witnesses are in agreement that the satellite picture is better than the off-air received picture; they shall so certify by their signatures on a suitable form to be mailed to the satellite carrier (such as DirecTV or Echostar,) which shall constitute legal authority for the carrier to turn on the signal; and this will end the matter.

And, repeating for emphasis what I said in Part V of this Comment, the American Public should have the right to receive any TV station that has been uplinked to satellite. **The Public Airwaves belong to us,** not to the NAB.

VII.

CHANNEL POSITIONING AND "LOCALISM"

At the present time it appears that DirecTV is positioning local stations with satellite receiver channels in a contiguous series, presently within channels 900-999, which accomodates a total of 100 stations. I do not know what their plans are for later when we have more than 100.

In the local listings sections of my "Satellite Direct" magazine for July 2000, which covers only the mountain-central-pacific time zones, I note, for example, channels 914 thru 917 are assigned to stations in Phoenix Arizona, and the next contiguous group is 918 thru 921 for stations in Dallas Texas. It is easy to keep each citys' stations together at these initial startup assignments, but what will happen later on if a fifth station starts up in Phoenix and wants carriage? Even assuming that there's room on a transponder, it won't be able to have channel 918 because that is already taken by KDFW in Dallas.

It will be very inconvenient to consumers to have a constant juggling of channels in order to accomodate "newbie" stations. May I please suggest that this not be allowed to happen. If a rule is necessary, it should be that new stations (if any) must accept a satellite channel assignment that is not necessarily contiguous, and that stations once assigned have "seniority" and cannot be "bumped."

However, if one of the stations presently occupying a slot in an existing contiguous set of channels goes dark and out of business then we should provide that the vacant slot be made available at top priority to carry a "public and non-commercial" community service channel, if one exists in that city being carried on the cable system. Such channels operate on very small budgets and do not usually have transmitters, but perform a very important service to their communities and enhance "localism."

It would not be technically difficult to uplink such a channel to satellite. Signals from TV stations, often of high quality picked up pre-transmitter at the studio, already exist together at a single location in many cities -- the cable headend. From here, the community service channel could be added to the "packet" for delivery to the satellite carrier's uplinking facility in Colorado.

This is extremely important in order to maintain "localism," especially in the case of smaller cities. It is in these that local TV stations using transmitters will begin to go dark first.

If all the commercial TV stations in a region go dark, the community service channel will be all that remains for "localism." I can envisage local high school or college athletic events which are very popular, being carried on a community service channel, using a cadre of community volunteers to operate the cameras and switching equipment. Here will be an excellent opportunity for local businesses to "sponsor" the channel by providing funds for equipment, for example. In fact, in Billings, Montana, we have two community service channels on the cable system right now!

As to on-screen program guides or menus, local stations of a given city should be all kept together in a group here, if it can be done on the existing satellite receivers by adjusting the computer systems that run these guides. The FCC should take note that many satellite receivers have options for the user of the receiver to arrange the guides according to a variety of choices, which draw upon and "massage" the information available in the datastream. I would respectfully suggest this is an area in which trying to make too many rules is not a good idea at this time. The technology is moving very fast in positive directions. Let us not create roadblocks in the path.

VIII.

DIGITAL TELEVISION

It is extremely premature at this time to consider making very many rules at all, except for stations in the major markets and the largest cities. Only these should be covered, with smaller stations in the smaller markets exempted for the duration.

The FCC should wait at least four years, preferably five, in order to see how many local broadcast stations are still on the air, before making digital rules that will affect the smaller stations. The rules requiring digital conversion will impose expenses that may only help to put them out of business faster.

If that's the intent, fine, but I submit that by 4 years from today we might even have better satellite technology in place providing many more "slots" than we have now and in 6-8 years it will be more practical to distribute many signals by satellite and eliminate on-air transmission -- both analog AND digital -- in channels 2-13 altogether. Satellite receivers, now priced as low as \$100, may be even cheaper and will be as commonplace in homes as videocassette recorders are today. Many homes will have more than one multi-

function small parabolic antenna. And hard disk drives will have replaced tapes in some video recorders by then. For more on this, examine the "TIVO" and similar devices. These are just getting started.

And there will be the problem of diminishing viewer share of these local stations and concomitant loss of advertising revenues. I predict again: these losses will eliminate 80% of the local broadcast stations now existing, most of them GONE by the years 2006-2008. That's not too far off; only slightly longer than the span of time it takes a kid to go thru high school.

For reasons of national security, however, we will in time need to consider maintaining at least one facility in each metropolitan area with an old but operable TV transmitter on an "emergency channel" in case something happens to the satellites or their vulnerable uplink facilities in the event of war or civil disturbance. The FCC should keep this in mind. Without question, Volunteer Ham operators would be pleased to assist with the periodic testing and maintenance of such a transmitter, as part of the many services "hams" render to their communities. It will become the "Conelrad" for the new millennium.

IX.

THE NIELSEN PUBLICATIONS: INADEQUATE INFORMATION

The Nielsen method, as I understand it, consists of monitoring a handful of homes in a given community by installing a device in the home which can "record" what TV station the household is watching at a given time. Other information might be gathered by polling techniques.

This may have been adequate back in 1950 when there was just one TV set in the living room, and a choice of only a few TV stations to watch.

But today in year 2000 many homes have more than one TV set, and many have more than one satellite receiver. In such cases, how does one accurately determine which channel the household is watching? I submit that you can't. In fact I have heard of mansions with more than thirty satellite receivers and TV sets.

I doubt very much that Nielsen is still able to obtain an accurate reading of how many people are watching [x] channel. Their sample size is way too small given the several hundred different channels available off-satellite, plus the many channels for Spanish-speaking people.

The FCC needs to take a careful look at Nielsen ratings. They are probably not accurate. I suggest that the FCC please confer with several independent experts on polling and statistical analysis and see what they think about Nielsen ratings accuracy with hundreds of channels.

And it is not good for the SHVIA to contain mandatory provisions for the use of these ratings exclusively. Who wrote this law anyway? The NAB? Wouldn't surprise me!

X.

CHANNEL LIMITATIONS ON SATELLITE

As we are all aware, the SHVIA requires the Commission to issue rules for carriage of all the local broadcast stations on satellite by about the end of November this year, but failed to explain how this should be done if there aren't enough satellite channels.

The only way to get more channels is to put more birds up in the sky, but this is very expensive, plus not all attempted launches of new satellites succeed. Sometimes the rocket blows up and falls back in the ocean, or something can go wrong and the required geosynchronous orbit not be achieved. Millions of dollars lost.

No channel presently existing on satellite should be required to be "bumped" just to make room for more local broadcast stations.

Confident in its ownership of Congress, the NAB might pressure the FCC for the bumping of other satellite services, but the FCC should resist any such hardball tactics by the NAB. If the Commission finds as we near November that there still aren't enough satellite channels to accomodate all the local broadcasters, the Commission should state these findings and decline to make rules accordingly.

The NAB might sue. Let 'em. By the time the case gets thru the legal system, years, the issue will be moot.

XI.

COPYRIGHT ISSUES, "SYNDICATED EXCLUSIVITY" & BLACKOUTS

Earlier in this Comment I have emphasized rather strongly that the Public Airwaves belong to the American People and not to the NAB.

The owners of the airwaves should have the right to tune in any television station which broadcasts gratis over the air and then has its signal uplinked to satellite. I am sure that DirecTV and Echostar would affirm that it is certainly technically possible to unlock any satellite receiver for ALL local station channels if we did not have this strange law purchased by the NAB by means of payments of large sums of money under the table to members of Congress (oops! Sorry again, "Political Contributions;") which says that American citizens may only receive those stations in their "designated market area" and I suppose the NAB has a lot to say about what stations are in each "area" too. They seem to have enough money to buy just about anything they want, and they do.

Why doesn't somebody ask Americans what THEY want to see???

The Commission should lean on Congress as hard as it can to rewrite the existing bad laws covering certain copyright issues. Syndicated Exclusivity should be abolished 100%, as should be most blackouts.

The capabilities of the system designed by News Datacom and used to control satellite receivers of the DirecTV system within the "access cards" are quite remarkable. It ranges from the ability to switch a channel on or off at ALL receivers, to the ability to switch on just one program only on a single receiver, and all done with great precision. Another capability, seldom-used, is to set an event at "NO RECORDING," which then applies a variant of Macrovision to try and prevent recording of the event; but anyone with electronics expertise who is reading this knows that Macrovision is a band-aid at best and is easily defeated. I can't understand why they even bother. It's a fact that Macrovision often causes problems of various kinds for people with large-screen "home theater" systems.

We can see this system at work with the pay-per-view (PPV) channels. I occasionally order a PPV movie, but only if it is shown in "letterbox" in the original theatrical format which is often the 2.35:1 ratio of Panavision. When you order a PPV movie, it is switched on just for you on your receiver and no other. If the movie is on an "All Day Ticket," as soon as you order, all channels on which the movie is showing are switched on instantly, and stay that way until 6AM EST the next day, usually. If the movie is just a "one-time" event, and some are, the receiver will lock the channel again as soon as it's over.

Some types of sports events, often boxing matches not intended for the public at large, are regularly shown on PPV, sometimes at high prices.

As to all the Screaming in general that will ensue re copyrights, the controlling doctrine should be that if the program is broadcast on the Public Airwaves by any radio or television station, it is automatically in the "public domain" and the public has the right to listen or watch at the time of broadcast, just as they now have the right to listen to any radio station out of hundreds over the Internet.

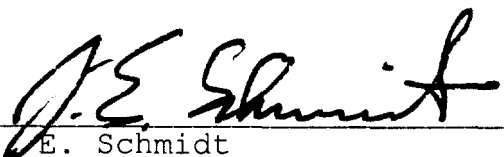
If this is not satisfactory to copyright holders, they do have the option not to allow their program to be broadcast and, instead, market it in some other manner that might be more profitable, such as a PPV program or distribute exclusively on videocassettes for sale.

As a practical matter it will be found after a while that the number of people who will tune in a broadcast station outside of their "area" will be a smallish, insignificant percentage and most likely it will be to watch a local newscast or high school game event from their home town, or a favorite program that a station happens to be showing. The principal interest for most viewers will still be local events and news carried by TV stations in cities where they live.

What is important is that we Americans live in a free country and we should have freedom of choice as to what channels we wish to watch. And I am going to discuss this with the American Civil Liberties Union (ACLU) to see if there just might be a constitutional issue in all of this.

The NAB will be crying crocodile tears all the way to the bank and sending additional truckloads of bags of money to members of Congress in order to impose their will upon all Americans, but the FCC should hold itself to a standard above this despicable activity. Due to the lack of MEANINGFUL campaign finance reform, it is still technically "legal," but morally WRONG.

Respectfully submitted,


J. E. Schmidt

FOOTNOTES

1. A letter by Mark Tokarski to the editor of The Billings Outpost, published on June 21, 2000, in regards to Sen. Conrad Burns, summed it all up better than I can...

"Burns the senator and Burns the human don't mesh

To the Editor:

On the wall in the waiting area of the office of Sen. Conrad Burns is a picture of the man in a dark suit and white hat. Interesting image! Neither the hat nor the suit become the man.

The office is a busy place. Phones ring. Aides scurry. Burns arrives. Coffee appears, along with things to sign. Then he's on the phone, asking for money, schmoozing. That's his job.

Money people receive special attention. That's what aides do -- take care of money people. A small part of his staff writes and signs those letters to constituents. He does not read your letters, nor does he sign his replies. That's a job for auto-pen.

Bills are long and complicated. The senator votes as his staff advises. Sometimes words appear in the Congressional Record that he did not say, and bills he has not read list him as a sponsor.

Like Betty Crocker, "Sen. Conrad Burns" is a composite created by public relations specialists. The real Conrad Burns is a friendly, warm, uneducated and bigoted man who thrives on human contact. The real Conrad speaks his mind. When that happens, aides scurry, damage control specialists hit the pavement, and press releases flood the wires.

Conrad Burns, an ordinary man, is a real threat to "Sen. Conrad Burns," image. So his public appearances are guarded and heavily scripted journeys, usually into friendly territory. Even so, aides quiver.

The Chamber of Commerce knows what's up. It's all OK, so long as Burns votes "right." News reporters know him, but little of that gets by the editors. When he does get off the leash, reporters rush to cover the accident that's sure to happen. It's cat and mouse.

He's human, even likeable. That thing about him being a senator and, well, he believes it too ... so let's not tell him.

With all the sincerity I can muster.

Mark Tokarski
Billings

2. At this time of this writing, incumbent Sen. Conrad Burns of Montana, in his bid for re-election to a 3rd term, has refused to debate the opposing Democratic candidate, Brian Schweitzer.

A letter by Larry Kralj to the editor of The Billings Outpost, published on June 21, 2000, in regards to Sen. Conrad Burns, said the following...

"See Conrad run -- away from debate with Schweitzer

Dear Outpost Guys,

Now boys and girls, for those of you who still don't understand, I will try to make it as simple as I can by reading you a story entitled, "Please Don't Eat My Lunch."

"See Conrad run. Run, Conrad, run. Why is Conrad running? Is he running to catch a bus? No. Is he running to catch a taxi? No. Is he running to catch a plane? No.

Conrad is running from something. What is Conrad running from? Is he running from a bear? No. Is he running from a tiger? No. Is he running from a lion? No. Is he running from the big boys who steal lunch money? No. In fact the big boys love Conrad because he is very nice to them. So they give Conrad lots of lunch money.

Why is Conrad running then? He is running from a debate. Can you say debate? Why is Conrad running from a debate? Well, because Conrad didn't do his homework. Conrad is not a very apt pupil. He knows that in a debate with Brian, Brian would eat his lunch. Oh, Brian, please don't eat Conrad's lunch.

Buy why would Brian want to eat Conrad's lunch? Brian is a very, very good student. Brian always does his homework. And Brian is very smart and always tries to help people, even old people. Brian knows he can do a much better job than Conrad. That's why Brian wants to eat Conrad's lunch.

But Conrad's handlers are very clever. They tell Conrad to be like Forrest Gump. When the more capable boys pick on you, run, Conrad, run. So Conrad runs, and runs, and runs. The end."

So boys and girls, the lesson we learn from this story is that if you don't want others to eat your lunch, you better do your homework.

Larry Kralj
Great Falls

EXHIBIT

A VHS videotape is included with this comment. It is in 3 parts:

1. Live off-air recording of a news broadcast from our local station KTVQ. The purpose of this is so you can see what KTVQ looks like in my home. I have requested a waiver to be able to get CBS off-satellite, but KTVQ has refused. Therefore, I am unable to watch anything from CBS any more. What you will see is the end product of enforcement of the obsolete Grade B contour standard, plus the provisions in the SHVIA which make local TV broadcasters the foxes in charge of the chicken coop in deciding whether or not viewers may obtain waivers to receive high-quality distant signals by satellite.

The newscast includes coverage of a group of ham operators in Montana.

2. The second part of the tape, about 13 minutes in, demonstrates what a satellite channel looks like in comparison with the off-air KTVQ. It is also a very entertaining excerpt from a "The Awful Truth" program by Michael Moore, aired Wed. 6/28/2000, where a pimp from New York City speaks with members of Congress offering his services to obtain money for their campaigns, in return for favors of various kinds; and also visits the offices of some lobbyist groups in Washington. This was done live with a camera running. It was not "staged."

Sadly, it rings very true, given the influence over Congress that groups such as the NAB seem to have.

3. Following the "Awful Truth" segment, there is more from KTVQ, if you can stand to watch it, but the picture quality is awful.

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.
- o Microfilm, microform, certain photographs or videotape.
- o Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician at the FCC Reference Information Center, at 445 12th Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

1 VIDEO TAPE